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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,621	08/26/2003	Frederick J. Diggle	BS030116 (03-BS019)	4360
7590	01/26/2005		EXAMINER	
Scott P. Zimmerman P.O. Box 3822 Cary, NC 27519			CHIN SHUE, ALVIN C	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/648,621

**Applicant(s)**

DIGGLE ET AL.

**Examiner**

Alvin C. Chin-Shue

**Art Unit**

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Is the "first clasp" the same as the clasp recited in claim 1? If so then claims 4 and 5 may be double patenting.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Groover. Groover shows a single strap 10 having ends 24,23 secured to waist belt 1 through clasp 18 which is slidable along the strap 10.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3 and 7-9 are rejected under 35U.S.C. 103(a) as being unpatentable over Groover in view of either Barnes or Chen et al. Groover shows the claimed

harness with the exception of the groin protector. Both Barnes shows a groin protector 10 with slots 24,42 for receiving a strap. Chen in fig. 4 shows a groin protector 4 secured to a leg strap 26 which can be slidingly secured to his leg strap by eyelet 30. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the harness Claims 2,3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groover in of Groover with a groin protector, as taught by either Barnes or Chen, for protecting the groin of a user.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groover in view of Barnes. Groover shows the claimed harness with the exception of the strap comprising an elastic cordage section . Barnes shows a strap comprising an elastic cordage section. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the harness of Groover to comprise a an elastic cordage section, as taught by Barnes, to aid in the comfort of a user when used with a groin protector.

Claims 1,4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groover in view of Wachtel. Groover shows the claimed harness with the exception of the first and second clasp. Wachtel shows a first and second clasp 20,21. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to provide the harness of Groover with a first and second clasp, as taught by Wachtel, for securing his leg loops to his waist strap.

Claims 2,3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groover and Wachtel as applied to claim 1 above, and further in view of either Barnes or Chen et al as applied above.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groover and Wachtel as applied to claim 1 above, and further in view of Barnes as applied above.

Applicant's election with traverse of group I in Paper No. 11/18/04 is acknowledged. The traversal is on the ground(s) that there would be no burden to examine both invention as the search for one invention would be the same for both and furthermore, applicant had submitted prior art. This is not found persuasive because searching alone does not constitute the entire process of prosecution of a case.


The requirement is still deemed proper and is therefore made FINAL.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Erwing, Rose, and Kirckovich showing harness being made of cordage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alvin C. Chin-Shue  
Examiner  
Art Unit 3634

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